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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* STEPHEN R. PALM

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Appeal 2009-012764  
Application 09/755,085  
Technology Center 2400

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Before JOHN A. JEFFERY, HOWARD B. BLANKENSHIP, and  
THU A. DANG, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

### STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-10, 12-14, 16-18, and 20-23, which are all the claims remaining in the application. Oral hearing for this appeal was held July 13, 2010. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

### *Invention*

Appellant's invention relates to a communications system consisting of a networked multimedia device (multimedia player) and media server.  
Abstract.

### *Representative Claim*

1. A method for providing multimedia content over a network, comprising:

connecting a multimedia device to a media server storing a plurality of multimedia clips over a communications network;

authenticating said multimedia device prior to granting access to said plurality of multimedia clips;

generating a menu for selecting one or more specific clips from said plurality of selectable multimedia clips for playing by said multimedia device, whereby specific clips are selected by user interaction with the menu;

generating a playlist that includes the selected one or more of said plurality of multimedia clips;

transferring said generated playlist to said at least one multimedia device.

*Prior Art*

Comerford	5,479,536	Dec. 26, 1995
Day	5,996,015	Nov. 30, 1999
Abecassis	6,192,340 B1	Feb. 20, 2001
Holland	6,446,096 B1	Sep. 3, 2002
Roy	6,785,244 B2	Aug. 31, 2004

*Examiner's Rejections*

Claims 1-10, 14, 16-18, 20, and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Abecassis, Day, and Roy.

Claims 12 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Abecassis, Day, Roy, and Holland.

Claims 21 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Abecassis, Day, Roy, and Comerford.

FINDINGS OF FACT

*I. Specification*

Controlled Content Access

[0080] In some cases, and to protect content from unauthorized access, the content provider should be able to limit access to its media server 115 [Fig. 1] repository only to authorized multimedia devices 105.

[0081] In one embodiment, multimedia device 105 is only allowed access to the media server 115 after completing a registration phase (e.g. over the phone, email or from the WWW). After the device has been properly registered, the IP

address of the device, the IP of the firewall protecting the local home communications network, or the subnet mask of that network should be added to the access list of the media service.

[0082] In an alternative embodiment, secured access using HTTPS, using an authorized client-based authentication certificate is used.

[0083] Still further, SDMI<sup>2</sup> based approaches [SDMI] or any other proprietary authentication method implemented in the device, which is recognized by the content provider's server as an authorized device could be used.

## *II. Roy*

Roy describes a network 120 (Fig. 1) in communication with a multimedia bridge 114, which controls communication between source and destination user devices. To establish multimedia conferencing between user devices, the operator of a user device 100 sends start-up signals to the multimedia bridge 114 that include the identity of the user device 100. When requesting a multimedia conference, the multimedia bridge 114 examines whether the request is valid and/or has proper authorization. If the multimedia request of the user device 100 is not valid and/or not authorized, the multimedia bridge sends a rejection message to the user device 100. If the request is valid, the multimedia bridge sends an invitation to the user devices that are requested for conference. Col. 4, l. 35 - col. 5, l. 10.

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<sup>2</sup> SDMI refers to Secure Digital Music Initiative. Spec. ¶ [0020].

## PRINCIPLES OF LAW

The Examiner bears the initial burden of presenting a *prima facie* case of unpatentability. If that burden is met, the burden of coming forward with evidence or argument shifts to the applicant. After evidence or argument is submitted by the applicant in response, patentability is determined on the totality of the record, by a preponderance of evidence with due consideration to persuasiveness of argument. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

## ANALYSIS

Appellant in the Appeal Brief argues claim 1 as representative of all the claims on appeal. Accordingly, we will decide the appeal on the basis of claim 1 alone. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Claim 1 recites “authenticating” the multimedia device prior to granting access to the plurality of multimedia clips. Appellant argues that the Examiner errs in finding that Roy teaches the required “authenticating.” While Appellant acknowledges that Roy teaches “authorization,” Appellant argues that “authorization” and “authentication” are not equivalent. On this “not equivalent” basis, Appellant submits that Roy does not teach or suggest authenticating a multimedia device.

Appellant admits that “authentication” is not defined in the Specification. *See* Oral Hearing Trans. at 8:1-2. Appellant alleges that the term has a well-known, understood meaning in the security field. *Id.* at ll. 3-7. However, Appellant has provided no evidence of what “authentication” might include or preclude in the pertinent field of endeavor; i.e.,

communications devices and systems, especially those directed to multimedia content delivery from a centralized repository to IP based multimedia devices via a home-networking infrastructure. *See* Spec. ¶ [0003].

Appellant's briefs present "analogies" to demonstrate alleged differences between "authorization" and "authentication." The record also contains discussions about the perceived differences between the two words in general terms. However, evidence that we have (*e.g.*, Spec. ¶ [0083]) suggests that "authentication" might have a particular meaning in the art. But Appellant has not come forward with extrinsic evidence in support of the view that the ordinary artisan would understand that Roy fails to teach or suggest "authentication" within the meaning of instant claim 1.

Moreover, while Appellant has not provided evidence of the meaning of "authentication" to one skilled in the art, we agree with the Examiner that Appellant's Specification (¶¶ [0080] - [0083]) seems to lack a clear distinction between the terms "authorized" and "authenticated."

If we were to accept Appellant's argued meaning of "authentication" - "verification of an entity's identity"<sup>3</sup> -- we do not see how Roy might be deemed to fail in teaching or suggesting such verification. In particular, the reference teaches examining a request from a user device to determine if the request is valid and/or has proper authorization, while possessing the identity of the user device (*see* FF II *supra*). Further, Appellant has not shown that Roy's determining whether a request from a multimedia device is "valid and/or has proper authorization" would mean, to the ordinary artisan, that

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<sup>3</sup> Oral Hearing Trans. at 8:2-7.

known methods of “authentication” (*e.g.*, Spec ¶ [0083]) were not involved in the determination.

In view of the preponderance of evidence standard that applies in this proceeding, we conclude that the Examiner has presented a *prima facie* case of unpatentability that has not been persuasively rebutted by Appellant. We sustain the rejection of claim 1. Consistent with Appellant’s election to decide the appeal on the basis of claim 1, the remaining claims (2-10, 12-14, 16-18, and 20-23) fall with claim 1.

#### DECISION

Because we are not persuaded of error in the rejection of any claim on appeal, we affirm the Examiner’s rejections of claims 1-10, 12-14, 16-18, and 20-23 under 35 U.S.C. § 103(a).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 41.50(f).

#### AFFIRMED

msc

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